

ORDINANCE NO. _____ (CM)

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WATSONVILLE
ADDING CHAPTER 17 (PROJECT LABOR AGREEMENTS FOR PUBLIC
WORKS CONSTRUCTION PROJECTS) OF TITLE 7 (PUBLIC WORKS) OF
THE WATSONVILLE MUNICIPAL CODE REQUIRING THE USE OF PROJECT
LABOR AGREEMENTS FOR CITY FUNDED CONSTRUCTION PROJECTS**

Pursuant to Section 607 of the Watsonville City Charter, the City Clerk hereby submits a summary of the contents of the proposed above-entitled ordinance.

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A true and complete copy of the proposed ordinance is on file and may be read and inspected in the office of the City Clerk, 275 Main Street, 4th Floor, Watsonville, California, 95076. Ordinance may also be accessed at:
http://cityofwatsonville.org/download/City_Council/City_Council_Documents/2013/092413/Item%206.1e%20Project%20Labor%20Agreement%20PLA%20Ordinance.pdf

This ordinance shall be published in the Watsonville Register-Pajaronian and/or Santa Cruz Sentinel in compliance with the provisions of the Charter of the City of Watsonville.

The proposed ordinance shall be in force and effect thirty days from and after its final adoption, which final adoption shall be considered by the City Council at its next regular meeting on October 8, 2013.

The foregoing ordinance was introduced at regular City Council meeting of the City of Watsonville, held on the 24th day of September, 2013, by Member **Montesino**, who moved its adoption, which motion being duly seconded by Member **Dodge**, was upon roll call carried and ordered printed and published by the following vote:

AYES: COUNCIL MEMBERS: **Coffman-Gomez, Dodge, Hernandez, Montesino, Cervantez, Hurst**

NOES: COUNCIL MEMBERS: **Bilicich**

ABSENT: COUNCIL MEMBERS:

/s/Lowell Hurst
Mayor

ATTEST:

/s/Beatriz Vázquez Flores
City Clerk

APPROVED AS TO FORM:

/s/Alan J. Smith
City Attorney

ORDINANCE NO. _____ (CM)

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NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WATSONVILLE, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. ENACTMENT.

Title 7 (Public Works) of the Watsonville Municipal Code is hereby amended by adding Chapter 17 (Project Labor Agreements for Public Works Construction Projects) to read in words and figures as follows:

CHAPTER 7-17
PROJECT LABOR AGREEMENTS FOR PUBLIC WORKS CONSTRUCTION PROJECTS

Sec. 7-17.01 Findings.

City-funded construction projects can involve numerous contractors and employees in different trades, have critical timelines for completion, and require a skilled

and properly-trained workforce to successfully complete the work in a proper and timely manner. In order to avoid costly delays and additional expense to the City, it is essential that construction on such projects proceed without the labor disruptions that can occur on long-term projects both from external labor relations problems and from the frictions that often arise when a large number of contractors and their employees work in proximity to one another on a job site.

In the private sector, project labor agreements have been used for years on complex construction projects to achieve satisfactory performance and the economic benefits that result from having a guaranteed source of skilled workers and from avoiding disruptions in work.

In the public sector, project labor agreements have been used successfully by the San Francisco International Airport, the Contra Costa Water District, the Oakland Airport, the Foothill De Anza Community College District, and numerous other public entities in and around the Bay Area for hospitals, reservoirs, wastewater treatments, schools and other complex construction projects. Such agreements have been a major factor in producing quality construction work and projects completed on time, within budget, and without labor strife or disruptions.

Throughout Northern California, and especially in the San Francisco Bay Area, project labor agreements have been used successfully on numerous public and private construction projects, and public entities such as the County of Contra Costa, the Bay Area Rapid Transit District, the Oakland Unified School District, the San Francisco Unified School District, the City of Berkeley, and others, maintain Project labor agreement Ordinances and Policies requiring the use of Project labor agreements on their publicly funded construction projects.

It is recognized that unemployment and underemployment of residents of the City of Watsonville has been and continues to be a serious problem. Statistics also indicate that the higher unemployment level in the City of Watsonville correlates to the higher number of families living at or near the poverty line and to a higher crime rate.

As a result, it is the policy of the City of Watsonville to increase the number of employed persons living in the City of Watsonville in an attempt to counteract the grave economic and social ills associated with the higher unemployment levels that exist within the City.

The City Council has determined there is a need to provide City of Watsonville residents with more opportunities to participate in workforce development and pre-apprenticeship programs that include life skills training and job readiness training. Such pre-apprenticeship programs will increase the capacity of Watsonville residents to succeed later in formal apprenticeship programs and hence reduce the unemployment rate and accompanying poverty and crime conditions.

The construction craft jobs that are created by City-funded projects can be used to facilitate the local hire goals embodied in Watsonville's Local Hire Ordinance. The construction crafts that are employed on these projects require a supply of new apprentices to perpetuate the crafts into the future which provide meaningful employment opportunities to individuals seeking to enter the building and construction trades for long-term, well-paid careers in the construction industry.

In addition, large numbers of returning Veterans are and will be seeking employment on City-funded construction projects and will be seeking training opportunities for entrance into the construction industry. Such training opportunities are

available through the program known as “Helmets to Hardhats,” utilization of which program is required in all current project labor agreements.

The City Council has determined that project labor agreements have proven to be a valuable vehicle for accomplishing all of the goals set out above.

Therefore, the City Council of the City of Watsonville has determined that on all competitively bid public works construction projects with a projected construction cost of \$600,000 or more, and employing workers in three or more crafts, a project labor agreement should be used for the construction of such projects.

Sec. 7-17.02 Definitions.

For the purposes of this chapter, certain words and phrases used are defined as follows:

(a) “Project Labor Agreement” shall mean a prehire collective bargaining agreement with one or more labor organizations that establishes terms and conditions of employment for a specific construction project or projects and is an agreement described in Title 29, Section 158 (f) of the United States Code.

(b) “Contractor” shall mean a person entering into or performing a public works construction project.

(c) “Subcontractor” shall mean any person with whom a construction contractor or other subcontractor enters into a contract to perform a portion of any public works construction project.

(d) “Public Works Construction Project” shall include all site preparation, construction, alteration, demolition, installation, improvement, painting, repair or off-haul work as defined in Labor Code section 1720.3, paid for in whole or in part by City funds with a projected construction cost of \$600,000 or more and employing workers in three or more crafts.

(e) "Union" shall mean the Monterey/Santa Cruz Building & Construction Trades Council and its affiliated unions and any other unions that become signatory to a project labor agreement governing the construction of a public works construction project.

Sec. 7-17.03 Application of Project Labor Agreement Policy.

This Chapter shall apply to all public works construction projects unless the existence of a project labor agreement will jeopardize state, federal or other public funding sources. In all, it shall be set forth in the bid documents for the public works construction project as a condition of the award that the successful bidder, including contractors and subcontractors at all tiers, shall be required to sign an agreement to be bound and to enter into a project labor agreement. The successful general contract bidder shall execute a master project labor agreement which will be filed with the City Clerk and shall govern its work on the construction of the public works construction project according to its terms.

Sec. 7-17.04 Required provisions.

Unless the Council, by majority vote determines otherwise, the project labor agreement shall contain the following provisions:

(a) The project labor agreement shall be binding on all contractors and subcontractors at all tiers;

(b) The contractor shall require all subcontractors, at all tiers, as a condition of working on the public works construction project, to become parties to the project labor agreement;

(c) The project labor agreement shall guarantee against work stoppages, strikes, lockouts, and similar disruptions of the project as set forth in subdivision (a)(4) of California Public Contract Code Section 2500.

(d) The Union and its members shall continue work on the public works construction project despite the expiration of the applicable collective bargaining agreements;

(e) All contractors and subcontractors shall recognize the union as the exclusive bargaining representative of the craft workers employed on the public works construction project;

(f) All contractors and subcontractors shall use the union hiring hall procedures for satisfying project craft needs on the public works construction project;

(g) All contractors and subcontractors shall hire apprentices indentured in the State-approved joint apprenticeship program for the craft or trade involved for work on the public works construction project in accordance with the apprentice ratios in California Labor Code Section 1777.5;

(h) Any local hire ordinance adopted by the City of Watsonville shall be included in and made a part of the project labor agreement;

(i) The project labor agreement shall require use of the "Helmets to Hardhats" Program to assist returning veterans in obtaining employment and training opportunities on the public works construction project.

(j) The wages and benefits of the craft employees performing work on the public works construction project shall be governed by the collective bargaining agreement of the union traditionally recognized as the bargaining representative of the craft(s) in question.

(k) The project labor agreement shall not apply to the contractors' or subcontractors' parent companies, subsidiaries, or affiliates.

(l) The project labor agreement shall not apply to the contractors' or subcontractors' managerial, executive, clerical or supervisory employees above the level of general foremen.

(m) The contractors or subcontractors are acting on their own behalf and have no authority, express, implied, actual, apparent, or ostensible, to bind the City.

(n) The project labor agreement does not apply to any work performed on or near or leading to or into the public works construction project site by federal, state, or other governmental entities or their contractor(s) for work which is not part of the public works construction project.

(o) An agreed-upon protocol concerning drug testing for workers who will be employed on the project as set forth in subdivision (a)(3) of California Public Contract Code Section 2500.

(p) Prohibition of discrimination based on race, national origin, religion, sexual orientation, political affiliation or membership in a labor organization in hiring or dispatching workers for the project as set forth in subdivision (a)(1) of California Public Contract Code Section 2500.

(q) All contractors and subcontractors may bid for and be awarded work on the project without regard to whether they are otherwise parties to collective bargaining agreements as set forth in subdivision (a)(2) of California Public Contract Code Section 2500.

(r) A requirement that disputes arising from the project labor agreement shall be resolved by a neutral arbitrator as required by subdivision (a)(5) of California Public Contract Code Section 2500.

Sec. 7-17.05 Compliance with State and Federal Law.

This Chapter shall be enforced only to the extent that it is consistent with the laws of the State of California and the United States. Nothing in this Chapter is intended to exempt any business from complying with State or Federal law, or from complying with State requirements for apprenticeship programs. No employer shall be required to violate its obligations under an agreement governed by the National Labor Relations Act and the Labor-Management Relations Act of 1947. If any provision of this Chapter is held by a court of law to be in conflict with State or Federal law, the applicable law shall prevail over the terms of this chapter, and the conflicting provisions of this chapter shall not be enforceable.

SECTION 2. PUBLICATION.

This ordinance shall be published in the Watsonville Register-Pajaronian and/or Santa Cruz Sentinel in compliance with the provisions of the Charter of the City of Watsonville.

SECTION 3. EFFECTIVE DATE.

This ordinance shall be in force and take effect thirty (30) days after its final adoption.
